

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

WP(C).No. 33187 of 2007(A)

PETITIONER:

E.K. VASAN,
GOKULAM ESTATE, CHUNDALE P.O., WAYANAD.

BY ADV. SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN

RESPONDENTS:

1. AGRICULTURAL INCOME TAX OFFICER,
VYTHIRI AT KALPETTA.
2. APPELLATE ASSISTANT COMMISSIONER,
AGRICULTURAL INCOME TAX & SALES TAX, KOZHIKODE.
3. KERALA AGRICULTURAL INCOME TAX
APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOZHIKODE.
4. DEPUTY TAHSILDAR (R.R), VYTHIRI.

BY GOVT. PLEADER SRI. GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ANTONY DOMINIC, J.

W.P.(C). NO. 33187 OF 2007

Dated this the 12th day of November, 2007

J U D G M E N T

In relation to the assessment year 1990-91, Ext.P1 order of assessment was issued under the Kerala Agricultural Income Tax Act. Petitioner filed an appeal before the first appellate authority. That was rejected by Ext.P2. Petitioner pursued the matter in appeal before the Tribunal by filing Ext.P4 along with Ext.P5 application for condonation of delay. The application for condonation of delay was rejected by Ext.P3 order dated 6.9.2001. Against Ext.P3 order, petitioner filed TRC No.571/01. That was also rejected by Ext.P7 order dated 5.9.2007. Subsequently, revenue recovery proceedings have been initiated against the petitioner. Thereupon petitioner filed this writ petition challenging Ext.P3 order, which as I have already stated, was the subject matter of TRC No.571/01.

2. Petitioner contends that since the TRC was rejected as not maintainable, this writ petition is maintainable. In my view his contention is misconceived. A reading of Ext.P7 shows that this Court rejected the TRC for the reason that the finding rendered by

the Tribunal in Ext.P3 was purely on a question of fact and could never be construed as a question of law. It is on that basis the TRC was held to be not maintainable. After inviting an order rejecting the TRC as above, it is not open to the petitioner to challenge the very same order by invoking the extra ordinary jurisdiction under Article 226 of the Constitution.

The writ petition fails and it is accordingly dismissed.

ANTONY DOMINIC, JUDGE

vps

WPC NO 33187/07

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